

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**COUNTY OF BUTLER, *et al.*,
Plaintiffs**

No. 2:20-CV-677-WSS

v.

**THOMAS W. WOLF, in his official
capacity as Governor of the
Commonwealth of Pennsylvania, and
RACHEL LEVINE, MD, in her official
capacity as Secretary of the
Pennsylvania Department of Health,
Defendants**

Complaint Filed 5/7/20

DECLARATION OF SARAH BOATENG

I, Sarah Boateng, hereby state, subject to the penalties of perjury, that the following is true and correct based upon my personal knowledge:

1. I was appointed Executive Deputy Secretary of the Pennsylvania Department of Health (“Department”) in August 2017 and have continuously served in this position since that time.

2. As Executive Deputy Secretary, I report to the Secretary of Health and provide day-to-day leadership and management of all programs throughout the Department of Health. I work closely with our leadership team to move forward their respective programs’ activities and ensure alignment with the Secretary and the Governor’s vision to achieve a healthy Pennsylvania for all. I have been closely engaged in the Department’s COVID-19 response through serving as liaison

between our Departmental Operations Center, the Secretary of Health, other Commonwealth agencies, and the Governor's Office.

3. Prior to serving in this role, I served as the special assistant to the Physician General at the Department and the Director of Public Affairs at Planned Parenthood Keystone.

4. I hold a Master's Degree in Healthcare Administration from the Colorado State University and am a graduate of the University of Pittsburgh and Robert Morris University.

5. Through my role as Executive Deputy Secretary, I am familiar with the March 19, 2020, Business Closure Orders issued by Governor Wolf and Secretary Levine and why only life-sustaining businesses could remain open.

6. On March 6, 2020, there were two presumed positive cases of COVID-19 in Pennsylvania. In an effort to minimize the spread of COVID-19 throughout Pennsylvania, the Department sought to limit the scale and scope of personal interactions as much as possible in order to reduce the number of new infections.

7. From a public health perspective, the best method to limit personal interactions and prevent the spread of infection would have been to issue a stay-at-home order and temporarily close all schools and businesses.

8. It was not feasible to close all businesses, however, because Pennsylvanians needed to have access to food, medicine, and other life-sustaining

items to survive.

9. Accordingly, it was determined that the most effective way to limit personal interactions was to allow only businesses that provide life-sustaining services or products to remain open and to issue stay-at-home orders directing that people leave their homes only when necessary.

10. The stay-at-home orders did not prohibit travel or movement. The orders permitted individuals to leave their homes to access, support or provide life-sustaining businesses, emergency or government services.

11. Guidance issued by the Department clarified that the stay-at-home orders permitted travel to care for seniors, minors, dependents, persons with disabilities or other vulnerable persons.

12. Guidance issued by the Department clarified that the stay-at-home orders permitted individuals to engage in outdoor activity, such as walking, hiking or running if they maintain social distancing.

13. While the stay-at-home orders restricted gatherings to ten (10) people in the “red” phase, twenty-five (25) people in the “yellow” phase, and two hundred fifty (250) people in the “green” phase, no official action was taken in regard to public entities holding board meetings, town hall meetings, public protests or public rallies that exceeded these numbers.

14. Rather, individuals attending such events were encouraged to wear a

face covering and practice social distancing.

15. As Executive Deputy Secretary, I have been a participant in the Governor's Phased Reopening Planning group and am familiar with the Commonwealth's reopening plan.

16. In developing the reopening plan, the Governor and Secretary of Health adopted a policy of reopening the Commonwealth on a county-by-county basis utilizing a red-yellow-green system.

17. The Commonwealth partnered with Carnegie Mellon University ("CMU") to have CMU review data from various agencies, including the Department. This data included demographic and health data such as population density, mobility, and health care resources for each county, and an internal dashboard created to inform the Commonwealth's reopening planning.

18. The Commonwealth developed a reopening plan that highlighted specific data the state would review including: (1) incidence rate targeting fewer than 50 new confirmed cases per 100,000 population reported to the Department over a 14-day period; (2) testing availability for individuals with symptoms and target populations, such as those at high risk, health care personnel, and first responders; (3) case investigation and contact tracing infrastructure in place to facilitate early identification of any cluster outbreaks and to issue proper isolation and quarantine orders; and (4) identification of an area's high-risk settings, including

correctional institutions, personal care homes, skilled nursing facilities, and other congregate care settings, and assurance that facilities have adequate safeguards in place such as staff training, employee screening, visitor procedures and screening, and adequate supplies of personal protective equipment to support continued operations.

19. Alongside the above-mentioned data dashboard, CMU developed a specialized tool, referred to as the Risk Based Decision Support Tool. This information allowed the Commonwealth to identify general trends within each county and region.

20. The mitigation efforts undertaken by the Commonwealth in response to the orders of both the Governor and the Secretary contributed to the flattening of the curve in Pennsylvania. Meaning, the number of new cases began to decrease.

21. Formal recommendations for the movement of counties between the red, yellow, and green phases were made to the Governor jointly by the Secretary of Health, the Director of the Pennsylvania Emergency Management Agency, and the Secretary of the Department of Community and Economic Development after reviewing the data related to the four metrics contained in the Governor's Reopening Plan.

22. On May 1, 2020, it was announced that Clarion, Lawrence, Mercer, and Venango counties would enter the "yellow" phase on May 8, 2020. These

counties are all located in the Northwestern Region of the Commonwealth. Butler County is located in the Southwestern Region.

- a. The data analyzed on April 28, 2020, demonstrated that, for the prior 14-day period, Clarion County had 7 new cases, Lawrence County had 9 new cases, Mercer County had 17 new cases, and Venango County had 0 new cases. During this same 14-day period, Butler County had 24 new cases.
- b. The data analyzed on April 30, 2020, demonstrated that, for the prior 14-day period, Clarion County had 5 new cases, Lawrence County had 8 new cases, Mercer County had 12 new cases, and Venango County had 0 new cases. During this same period Butler County had 21 new cases.

23. On May 8, 2020, it was announced that Butler County would enter the “yellow” phase on May 15, 2020.

- a. The data analyzed on May 5, 2020, demonstrated that, during the prior 14-day period, Butler County had 20 new cases.
- b. The data analyzed on May 7, 2020, demonstrated that, during the prior 14-day period, Butler County had 19 new cases.

24. On May 22, 2020, it was announced that Clarion, Lawrence, Mercer, and Venango Counties would enter the “green” phase on May 29, 2020.

- a. The data analyzed on May 21, 2020, demonstrated that, during the prior 14-day period, Clarion County had 2 new cases, Lawrence County had 5 new cases, Mercer County had 23 new cases, and Venango County had 1 new case.
- b. The data analyzed on May 21, 2020, demonstrated that, during the prior 14-day period, Butler County had 12 new cases.

25. When considering the movement of counties from the “yellow” to “green” phase, four metrics were analyzed: (1) whether the county had stable, decreasing, or low confirmed case counts for the immediately preceding 14-day period compared to the previous 14-day period; (2) whether the contacts of cases within the county were being monitored; (3) whether the Polymerase Chain Reaction (PCR) testing positivity rate, meaning that the number of positive cases per 100,000 population, had been less than 10% for the past 14 days; and (4) whether hospital bed use was 90% or lower per district population in the county.

26. On June 5, 2020, Butler County was moved into the Green phase.

27. The Southwest region of the Commonwealth is seeing a concerning increase in COVID-19 cases following the suspension of most Commonwealth-wide mitigation requirements as of June 5, 2020. Despite the actions taken by the Commonwealth, the increase in COVID-19 cases has continued both in the counties of Butler and Washington.

Date: 7/9/2020



Sarah Boateng
Executive Deputy Secretary
Pennsylvania Department of Health